





**ITAG**

## NOTICE OF AGENDA

U.S. CIVIL SERVICE COMMISSION  
INTERAGENCY ADVISORY GROUP

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June 17, 1977

TO: Directors of Personnel

FROM: Clinton Smith  
Executive Vice-Chairman

There will be a special meeting of the Interagency Advisory Group (personnel directors and general counsels) on Thursday, June 23, 1977, at 2:30 p.m. in Room 1304 of the Commission Building.

The purpose of the meeting, which will be conducted by representatives from the Commission's Office of the General Counsel and the Bureau of Recruiting and Examining, is to:

1. Present CSC's newly developed model procedures for processing and rating applications for attorney and law clerk trainee positions; and
2. Review the 302 regulatory requirements which are applicable to appointments in the excepted service.

We are asking that personnel directors communicate this invitation to their agency general counsels or their representatives.

We look forward to seeing you on June 23.

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Agency Systems for Handling Employment Applications

For

Non-Career Positions

### Introduction

Agencies are expected to have or to establish a well-defined system for handling applications for non-career positions. Intermingling applications intended for political or non-career jobs with applications intended for career jobs creates serious problems in fact as well as appearance. Therefore, the need for agencies to systematically and properly identify and handle separately non-career applications is crucial.

Federal agencies receive large numbers of employment applications frequently directed to the head of the agency or to other high level agency officials from individuals interested in working for the political leadership of the department or agency. These applications may be received at any time but receipt becomes particularly heavy during the transition period of an incoming Administration and during other periods of high public interest in Federal activities. Examples of these applications are:

- o Applications sent to agency political appointees or appointee-designates for employment consideration.
- o Applications referred to the agency by political transition teams as a part of the incoming Administration's talent search.
- o Applications referred to the agency by political and other leaders in the Congress, State, and local governments or private sector.

The following provides some guidance that Federal officials should consider and specifies the characteristics that should be contained in an agency system for handling employment applications for non-career jobs in order to ensure that the separate and distinct processes of career service employment are properly preserved.

### Career and Non-career Jobs

Many individuals applying for Federal employment may not be well informed about the distinctions between career and non-career jobs in the Federal service. The differences in handling and acting on applications for appointment to positions in the non-career, as contrasted with the career service, are also frequently not clear to applicants. For example:

- o Career jobs are nonpartisan. Career jobs are filled solely on the basis of individual qualifications, merit and open competition. The process of entrance into the career service is administered by the U.S. Civil Service Commission which establishes and maintains lists of eligible candidates for agency consideration and selection.

There are other legal constraints involving career jobs. It is illegal for political, as well as other considerations such as race, religion or marital status, to enter into the employment consideration process for

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Federal career positions, no matter what type of career job or at what level. Such information may not be used in any way or given any weight in the career service selection process. An agency official cannot inquire, either directly or indirectly, about a career service applicant's political or religious affiliations.

There are other jobs that are excepted from the career service, but that are nonpartisan. These are in Schedules A and B. Many of these are continuing positions but have been excepted from the competitive service because it has been determined that examination for these positions under the regular civil service system is not practicable. However, these positions are required to be filled in accordance with applicable legal requirements (e.g., veteran preference) in a manner free from nonmerit consideration, and under predetermined standards that are uniformly applied.

o Non-career jobs evolve from each Administration's need to fill certain identified excepted positions in departments and agencies on the basis of support for the Administration's political aims and policies. Appointees to these positions are generally those who are to be responsible, within these departments and agencies, for formulating, advocating and directing Administration policies and programs; or they are those who will work for agency officials with these responsibilities in a confidential relationship.

Non-career jobs are "excepted" from the career service by a variety of statutes, Executive Orders or Civil Service Commission regulations. There are essentially three categories of non-career jobs: 1) Presidential appointees. 2) Non-career Executive Assignments for GS-16 through GS-18 grades. 3) "Schedule C" positions in grades GS-1 through GS-15 and above the GS-18 level (this group would cover Executive Level appointments made by the agency head).

#### Systematizing Application Receipt and Processing

All agencies receive employment applications that are obviously directed to career type jobs. Those are usually received and processed through an organized system in the agency's personnel office that is orderly and well understood by those handling the applications. Similarly, procedures for handling non-career applications should be clearly defined and understood. Recognizing that individual agency conditions and organizational arrangements differ, the specific procedures called for may vary. However, the characteristics of a system should be such as to ensure that the separate processes of filling non-career and career jobs are observed. The system should pay due regard to the necessity to:

- o Record the receipt, status, and disposition of applications.
- o Promptly identify and separate applications for career type jobs from applications for non-career jobs.
- o Maintain the continued separation, processing, and handling of career and non-career applicants and insure there is no opportunity to intermingle applications.
- o Evaluate non-career job applications in terms of agency needs, consider applicants, and make appointments when appropriate.
- o Store a non-career application for possible later use or return an application without agency action, ensuring the appropriate acknowledgement to the applicant.

- o Ensure that when an individual indicates an interest in career positions the applicant is advised about proper application procedures for employment in the career service, or, if appropriate, the application is properly entered into the career application system.
- o Ensure the deletion or separation of inappropriate information such as political endorsement or affiliation, religious affiliation or race from applications that are entered into the career application system.
- o Ensure that no preferential treatment is to be accorded nor any non-merit factors involved in whatever consideration may be given to applications that might be transmitted into the career system.
- o Be certain that the agency staff handling non-career applications maintains communications with the agency personnel office so that there is a full understanding of proper application processing.
- o Ensure that the role of the Director of Personnel is one that maintains a close working relationship with those top agency officials who are involved in the selection and appointment of persons to non-career positions. The personnel office administratively processes all agency appointments and must be readily available to advise management on the technical and legal constraints involved in appointments to various positions in the agency. Agency personnel offices should also have in place a system to advise applicants on the appropriate way to apply for a Federal career job through the U.S. Civil Service Commission's career employment application system.

## Chapter 302

# Employment in the Excepted Service

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## Subchapter 1. General Provisions

### 1-1. GENERAL REQUIREMENTS

a. **Method of filling excepted positions.** (1) A vacancy in a position which is clearly excepted by statute, Executive order, or Schedule A, B, or C, as described in Chapter 213, Excepted Service, is ordinarily filled by excepted appointment or by position change of an employee already serving under an appropriate excepted appointment.

(2) When the position is temporarily retained in the competitive service under the following circumstances, a competitive service personnel action is appropriate:

(a) When a personnel action is taken to satisfy an agency's responsibility for restoration of a person to the competitive service after successful appeal from separation, after military service or defense transfer, → or after recovering from compensable injury, ← the employee is considered as being entitled to a position of like status on restoration, and the position will remain in the competitive service during the employee's incumbency.

(b) When a personnel action continues an employee who is in the competitive service and has competitive status in substantially the same assignment but with a change in grade or series of the job occasioned by reorganization or classification action, a *vacancy* does not exist for all practical purposes, and both the employee and the successor position are retained in the competitive service during the employee's incumbency.

(c) When the position of an employee who is in the competitive service and has competitive status, is moved to a new organization as part of a reorganization or transfer of function, the position remains in the competitive service during the employee's incumbency.

(3) When the Commission finds that in a particular situation the action clearly will be in

the interest of good administration, it may authorize the filling of excepted positions under competitive procedures. No general authority is provided; the Commission considers each request individually on the basis of all relevant circumstances. Only those requests which originate with the headquarters offices of agencies are considered.

b. **Eligibility for excepted appointment.** Excepted positions may be filled by the appointment of persons without competitive status. To the extent permitted by law, Executive order, and civil service regulations, the head of the agency may prescribe the requirements for appointments and position changes in the excepted service. The agency's requirements for employment in the excepted service must be available for Commission inspection. For the Commission's qualification requirements for excepted appointment, see section 2-8.

c. **Status of excepted employees.** An appointee does not acquire competitive status by reason of excepted appointment.

d. **Prior approval of Commission.** Unless a position is clearly excepted from the competitive service, the appointing officer must submit the question to the Commission for decision before making an appointment to it. In particular, the appointing officer must obtain a Commission determination about positions having duties and responsibilities which, in the opinion of the appointing officer, cause them to be excepted by a current statute or Executive order under generic designations such as *experts*, *technical experts*, *special agents*, or *examiner*.

e. **Documentation.** An agency documents excepted appointments and changes in appointments and reports them to the Commission in the same manner as competitive appointments. Appendix B of this chapter contains permissible variations from the standard requirements.

**1-2. SELECTION REQUIREMENTS**

a. **General.** Agencies must follow section 3320 of title 5, United States Code, and part 302 of the civil service regulations in selecting applicants for appointment to excepted positions. This is not required when—

(1) Appointment is made with the advice and consent or confirmation of the Senate; or

(2) A former employee entitled to reemployment benefits is reemployed; or

(3) No preference applicant applies.

→(4) No person entitled to priority consideration applies.←

b. **Exemptions.** Commission regulations require an agency to follow the principles of veteran preference only so far as is administratively feasible when filling the positions listed below, but a qualified veteran who is not selected is entitled, upon request, to receive written reasons for nonselection:

(1) Positions under Schedule C.

(2) Positions filled by employees appointed without pay or at pay of \$1 per annum.

(3) Positions paid on a fee basis.

(4) Positions filled by employees serving on an irregular or occasional basis without a pre-arranged schedule.

(5) Positions outside the continental United States, and outside Hawaii and Puerto Rico, when filled by residents of the locality; also positions in Hawaii and Puerto Rico when pay is fixed in accordance with local prevailing wage rates.

(6) Positions which the exigencies of the national defense program demand filling before lists of qualified applicants can be established or used. Persons selected for these positions without regard to lists may be appointed for temporary periods of one year or less, and the agency may renew the appointments for an additional year.

→<sup>1</sup> A "person entitled to priority consideration," as used in this chapter, means a person who was separated because of a compensable injury and whose recovery takes longer than one year from the date compensation began. To be eligible for priority consideration the person must apply for reappointment to his former agency within 30 days of the date of cessation of compensation.←

(7) Positions under Schedule A and similar types of positions when the Commission agrees with an agency proposal that prescribed selection requirements are impractical. Agency requests for Commission agreement should contain full information on the duties of the positions and of the recruiting and examining difficulties expected.

(8) Student trainee positions when filled under Schedule B.

(9) Positions filled by noncareer executive assignment.

c. **Special modifications.** An agency wanting to modify the selection procedures the Commission prescribes should submit to the Commission a description of a proposed appointment system that will grant veterans →and persons recovering from compensable injury the preference and priority consideration← provided by law. Proposed systems may be used only as approved by the Commission.

**1-3. GENERAL LIMITATIONS**

Civil service rule 6.5 provides that no employee under an excepted appointment may be assigned to the work of a position in the competitive service, except with prior approval of the Commission.

**1-4. TIME AND PAY LIMITS**

a. **Service year.** When an authorization for excepted appointment limits service to a period of a year, the term *a period of a year* means *service year* except when the excepting authority specifically says *calendar year*. A service year is a 12-month period beginning with the date of the first appointment under the authority. A subsequent service year for the same person is counted from the same date in the subsequent year. When the last appointment under the particular authority was terminated over a year ago, the date of the next subsequent appointment is the date from which subsequent service years are counted.

b. **Working day limitation.** *Working days* are calendar days for which the employee is paid for service or leave. For example, an employee working one hour a day for eight

days uses eight workdays, not just one workday. Nonworkdays such as Saturdays and Sundays, or other days for which the employee is not paid, do not count toward the limit on workdays. Paid leave and holidays count, but annual leave covered by a lump-sum leave payment does not count toward the limit.

c. **Working hour limitation.** *Working hours* are actual hours for which the employee is paid for service or leave. These include holiday hours for which he is paid but not annual leave covered by a lump-sum leave payment.

d. **Pay limit.** Pay limits are explicit in the excepting authority. A lump-sum leave payment counts toward a pay limit.

### 1-5. EMPLOYEE PRIVILEGES

Employees in the excepted service are entitled, generally, to employee benefits under the following statutes.—Those statutes and the exclusions from them are described in the chapters shown below; exclusions are also

identified in implementing Executive orders and Commission regulations.

<i>Statute</i>	<i>Chapter</i>
→38 U.S.C. 2021 et seq. and 5 U.S.C. 8151.←	353
5 U.S.C. 4101-4118 (training).....	410
5 U.S.C. 4301-4308 (performance rating)....	430
5 U.S.C. 4501-4506 (incentive awards).....	451
5 U.S.C. 5101-5115 (classification).....	511
5 U.S.C. 5301-5364; 5501-5596 (pay).....	530-550
5 U.S.C. 6301-6326 (leave).....	630
5 U.S.C. 8101-8150 (injury compensation)....	810
5 U.S.C. 8301-8348 (retirement).....	831
5 U.S.C. 8501-8525 (unemployment compensation).....	850
5 U.S.C. 8701-8716 (life insurance).....	870
5 U.S.C. 8901-8913 (health insurance).....	890

### 1-6. TRIAL PERIOD

The Commission requires no trial period for excepted appointment. The agency may require a trial period, but the trial period does not negate any rights to which a preference eligible is otherwise entitled under 5 U.S.C. 7512. A preference employee in an excepted position or positions is covered by 5 U.S.C. 7512 after one year of continuous service regardless of the trial period requirements of the agency.

## Subchapter 2. Eligibility Standards

### 2-1. LEGAL REQUIREMENTS

Unless specifically exempted by statute, Executive order, or Commission regulation, excepted employees must meet the security, suitability, and conduct requirements prescribed by law for Government employment. They also are subject to the dual compensation statutes.

### 2-2. EQUAL EMPLOYMENT OPPORTUNITY

a. General policy. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, →age,← or national origin, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive agency →(Executive Order 11478 of 1969, the EEO Act of 1972, and the Age Discrimination in Employment Act of 1967 as amended by Public Law 93-259).← The policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government. The head of each executive agency is responsible for establishing and maintaining an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the above policy.

b. Commission responsibilities. The Commission is responsible for providing leadership and guidance, for providing for prompt, fair, and impartial consideration of complaints of discrimination, and for the issuance of necessary

regulations and instructions. Part 713 of the regulations and chapter 713 of the FEDERAL PERSONNEL MANUAL contain the Commission's regulations and instructions on equal employment opportunity.

### 2-3. EMPLOYMENT OF ANNUITANTS

Under 5 U.S.C. 3323(b), a civil service annuitant may not, by reason of his retired status, be barred from employment in any appointive position for which he is qualified. This provision of law applies to excepted as well as competitive positions.

### 2-4. VETERAN PREFERENCE

a. Preference determinations. The agency makes all veteran preference determinations for excepted appointments but may request advice from the central or regional office of the Commission in difficult cases. Chapter 211, Veteran Preference, describes how to determine eligibility for preference.

b. Application of preference. In filling excepted positions subject to the veteran preference requirement, the agency must follow definite and fixed procedures so that a veteran desiring appointment in such a position may readily learn the manner in which legal requirements on preference were applied to his application.

### 2-5. CITIZENSHIP

Appointees must meet any citizenship restrictions in applicable appropriation acts. The Commission's citizenship requirements do not apply to excepted appointments.

### 2-6. MEMBERS OF FAMILY

The members-of-family requirement of 5 U.S.C. 3319 does not apply to excepted appointments.

## 2-7. ADMINISTRATIVE DISQUALIFICATIONS

a. An agency may provide, among other appropriate factors, that any of the following disqualifies an applicant for excepted employment but an agency may not disqualify an applicant solely because he is retired.

- (1) Dismissal from employment for delinquency or misconduct.
- (2) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.
- (3) Intentional false statements of any material fact, or deception or fraud in connection with an application.
- (4) Habitual use of intoxicants to excess.
- (5) Reasonable doubt of the loyalty of the person to the Government of the United States.
- (6) Any legal disqualification for appointment.
- (7) Lack of United States citizenship.

## 2-8. COMMISSION QUALIFICATION REQUIREMENTS

a. **General.** The Commission's qualification standards are used to determine eligibility of applicants for positions of motor vehicle operators, for Schedule B positions, and for positions in GS-16, -17, and -18. The procedures to follow when Commission approval of a selected applicant's qualifications is necessary are in appendix A of this chapter.

b. **Motor vehicle operators.** The Commission's regulations on appointments to motor vehicle operator and incidental operator positions apply to excepted positions.

c. **Schedule B positions.** Approval of qualifications by the Commission is required prior to appointment unless the Commission has delegated authority to the agency to apply the Commission's standards. Applicants must pass any noncompetitive examination the Commission prescribes.

d. **Positions in GS-16, -17, and -18.** For information on filling GS-16, -17, and -18 positions see subchapter 3 of chapter 300.

e. **Positions excepted under generic terms** When positions are excepted under generic terms such as experts, technical experts, attorneys, or legal consultants, the Commission has authority to decide whether the person proposed for the position actually is an expert in the particular field.

## 2-9. AGENCY QUALIFICATION STANDARDS

a. **Establishment and use.** Except as provided in section 2-8, agencies shall establish qualification standards before appointing to excepted positions. Each standard the agency prescribes must be recorded in the appropriate office of the agency, and information concerning the standards for any position must be furnished on request. Approved standards must be applied uniformly to all applicants for a position.

b. **Limitations.** (1) An agency may prescribe minimum educational requirements only when it decides that the duties of a scientific, technical, or professional position cannot be performed by a person without that education.

(2) Any physical, height and weight, or →minimum← age requirements administratively prescribed by agencies for positions subject to the veteran preference laws are subject to the following limitations:

(a) Physical requirements must be waived for any preference eligible if, after due consideration has been given to the recommendation of an accredited physician, the preference eligible appears to be physically able to discharge his duties efficiently and without hazard to himself or others.

(b) Any height, weight, and age requirements which are applied administratively must be waived for preference eligibles unless the requirement is essential to the performance of the duties of the position. This waiver must be applied uniformly to all preference-eligible applicants for the position.

(3) The prohibition against use of personality tests stated in section 1-5i of chapter 337 applies also in filling positions which the Commission has excepted from the competitive service under civil service rules VI or IX.

→(4) An agency may not establish a maximum age requirement for any position (maximum age requirements may be established by the Civil Service Commission, but only on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position).←

#### **2-10. CHANGE FROM COMPETITIVE TO EXCEPTED APPOINTMENT**

When an employee proposed for appointment to a position in the excepted service or for

noncareer executive assignment is serving under a nontemporary appointment in the competitive service, the agency may not make the excepted appointment or noncareer executive assignment or conversions thereto until the employee has:

(1) Been informed that because the position is in the excepted service it may not be filled by competitive appointment, and that his acceptance of the proposed appointment will take him out of the competitive service while he occupies the position; and

(2) Submitted a written statement to the effect that he understands he is leaving the competitive service voluntarily to accept an appointment in the excepted service.

## Subchapter 3. Accepting, Rating, and Arranging Application

### 3-1. ACCEPTING APPLICATIONS

a. **Agency rules.** Each agency must establish rules for accepting applications for excepted employment. The rules must be recorded in the agency and must be uniformly applied to all persons who meet the conditions of those rules. Information about the rules must be furnished on request.

b. **Restrictions.** Acceptance rules also must provide that as long as three or more qualified applicants entitled to veteran preference and eligible for appointment under the same appointing authority are available for the positions of elevator operator, messenger, guard, and custodian, no applications from persons without preference may be considered.

### 3-2. RATING APPLICATIONS

a. **Evaluation.** Each application accepted must be evaluated against appropriate qualification standards. This evaluation may be made any time before appointment and is documented on the application. All applicants meeting the minimum standards are eligible for appointment.

b. **Crediting experience.** All appropriate experience of a veteran applicant, including that gained in unpaid activities, is creditable. Military experience unrelated to the position for which the applicant is being considered is credited only when the applicant is entitled to veteran preference, and then is credited as a continuation of the applicant's civilian occupation at the time his military duty began.

c. **Adjective ratings.** Adjective ratings may be used to show ineligibility for appointment in all situations and to show eligibility for appointment when the requirement to assign numerical ratings is waived because:

(1) All qualified applicants will be offered immediate appointment; or

(2) The position is exempted by law or Commission regulation, or through approval of a proposed agency plan as each is described in subchapter 1; or

(3) There is an excessive number of applicants and only the best qualified need be assigned numerical ratings to provide the agency with sufficient candidates to fill its excepted vacancies. In this case all preference applicants must be given the same consideration they would receive were all applicants assigned numerical ratings.

d. **Numerical ratings.** Numerical ratings are assigned on a scale of 100, with 70 the minimum eligible rating. Except when a waiver is authorized, a numerical rating is assigned to every applicant who meets the minimum eligibility requirements. A rating of 70 or more assigned to a preference eligible is increased by the number of additional points (5 or 10) to which he is entitled. A notice of the rating assigned must be furnished on request.

### 3-3. GROUPING RATED APPLICATIONS

a. **Reemployment list.** This group includes the names of all former agency employees who are to be considered for future employment. Their applications for employment are assigned numerical ratings. → This list must include the following applicants:

(1) Each former employee entitled to veteran preference; and

(2) Each former employee who was furloughed or separated due to compensable injury and who is eligible for priority consideration under this chapter; provided the former employee

(a) Was furloughed or separated without delinquency or misconduct; or

(b) Is found by the Commission to have been unjustifiably dismissed by the agency. ←

b. **Regular employment list.** This group includes the names of applicants assigned eligible ratings but not included with the reemployment list. → Applicants entitled to priority consideration under this chapter are eligible for entry on an agency's regular employment list when they:

(1) Have a statement from their last employing agency that they cannot be placed; and

(2) Have ceased receiving compensation under chapter 81, of title 5, United States Code, no more than one year previously for persons formerly in tenure group II and two years previously for persons formerly in tenure group I. Eligibility may be terminated earlier, however, upon the persons' acceptance of a nontemporary, full-time position or upon declaration of full-time employment in a position equivalent to the one held at the time of injury. ←

### 3-4. ORDER OF LISTING ELIGIBLE RATINGS

a. **General.** Except for a professional or scientific position at GS-9 or higher the applicants' names are arranged in either order A or order B described below. The professional order is used when appropriate. In each category designated for the order, the applicants' names are listed in descending order of numerical ratings. When more than one applicant has the same numerical rating the name of a preference applicant is entered above the name of a nonpreference applicant.

b. **Order A.** (1) The names of all applicants on the agency reemployment list who are entitled to veteran preference and have a compensable service-connected disability of 10 percent or more.

(2) The names of all other eligible applicants who are entitled to veteran preference and have a compensable service-connected disability of 10 percent or more.

(3) The names of all other applicants on the agency reemployment list.

(4) The names of all other eligible applicants.

c. **Order B.** (1) The names of all applicants on the agency reemployment list who are entitled to veteran preference and have a compensable service-connected disability of 10 percent or more.

(2) The names of all other applicants on the agency reemployment list.

(3) The names of all other eligible applicants who are entitled to veteran preference and have a compensable service-connected disability of 10 percent or more.

(4) The names of all other eligible applicants.

d. **Order for professional and scientific positions.** For professional and scientific positions at GS-9 and above:

(1) The names of all applicants on the agency reemployment list,

(2) The names of all other eligible applicants



## Subchapter 4. Selection and Appointment; Reappointment; and Qualifications for Promotion

### 4-1. SELECTION FOR APPOINTMENT

a. Without regard to lists. Any former employee of the executive branch of the Federal Government or the District of Columbia Government who is entitled to veteran preference and who meets the qualification standards may be employed in an excepted position without regard to eligible applicants on the agency regular employment or reemployment lists.

b. From employment lists. For appointment to each vacancy, the agency selects from no more than the highest three names available for appointment in the order authorized for arranging numerical ratings, with the following prerogatives:

(1) Eligibles on the agency reemployment list need not be accorded preferential consideration when the reemployment list contains the names of fewer than three applicants entitled to veteran preference.

(2) An applicant previously considered three times, or a preference applicant passed over three times as provided in paragraph c, need not be considered again for appointment to positions with qualification requirements the same as for the position for which considered or passed over.

c. Passing over a preference applicant. When, in accordance with paragraph b, an agency passes over a preference applicant to select an applicant below that of the preference applicant on the authorized list, the agency must record its reasons for passing over the preference applicant. A copy of the reasons, on his request, must be given either the preference applicant or his designated representative. Consideration need no longer be given

an applicant passed over three times for the same position.

### 4-2. POSITION CHANGES

a. Authority. An agency may promote, demote, or reassign an employee serving under an excepted appointment to another excepted position appropriately filled under the same excepting authority when the employee meets the requirements for appointment to the position; e.g., from Attorney, GS-12, to Attorney, GS-13, under section 213.3102(d) of Schedule A. Change to another excepted position under a different authority is made as a conversion to excepted appointment.

b. Approval requirement. Prior approval for the position change must be secured from the Commission when prior approval is required for excepted appointment under the authority.

c. Waiver of physical requirements. The agency must waive physical requirements on age, height, and weight for employees entitled to veteran preference when the requirements are not essential to perform the duties of the position. Other physical requirements are waived when medical authority finds the veteran preference employee to be physically able to perform the duties of the position.

d. Promotion limitation. The Whitten Amendment (Public Law 82-253), restrictions on promotion apply to excepted positions under the General Schedule.

e. Demotions. Certain employees in the excepted service are covered by 5 U.S.C. 7512 in proposed involuntary demotion. (See Chapter 752, Adverse Actions by Agencies.)

## Subchapter 5. Reduction in Force and Adverse Actions

### 5-1. REDUCTION IN FORCE

Sections 3501-3504 of title 5, United States Code, apply to reductions in force in the excepted as well as the competitive service. The specific coverage of excepted employees, their rights in a reduction in force, and their rights to appeal are explained in Chapter 351, Reduction in Force.

### 5-2. ADVERSE ACTIONS

5 U.S.C. 7512 applies to preference employees

in the excepted service with few exceptions. The coverage of excepted employees under the law and under the implementing regulations of the Commission is in Chapter 752, Adverse Actions by Agencies. In addition, Chapter 752 applies to excepted employees with competitive status (without regard to preference) occupying positions in Schedule B. The specific coverage of both classes of employees, their rights in adverse actions, and their rights to appeal are also in Chapter 752.

## Appendix A. Individual Approvals by the Commission

### A-1. COVERAGE

This appendix describes the procedure to be followed in obtaining the Commission's approval, where required, of individual appointments to excepted positions. The following types of proposed actions are included:

- Requests for prior approval of appointment under Schedule B.
- Requests for approval of the reemployment of a former employee who was separated from previous Federal employment, or resigned while suspended, under 5 U.S.C. 7532 or similar statute, except when the agency proposing reemployment is the agency which suspended or separated the employee.

Requests for approval of personnel actions involving positions in grades GS-16, -17, or -18 should be prepared and submitted in accordance with instructions in FPM SUPPLEMENT 305-1, subchapters S3 and S4. For requests involving the employment of experts and consultants, see chapter 304. For requests involving the applicability of specified exceptions to particular positions, see Chapter 213, Excepted Service.

### A-2. SUBMISSION OF REQUESTS

Requests to the Commission must be accompanied by Standard Form 59 in duplicate. Requests are directed as follows:

- Requests involving positions in Schedule B are routed to the Career Service Division, Bureau of Recruiting and Examining, United States Civil Service Commission, Washington, D.C. 20415 unless authority to approve has been delegated to the regional offices of the Commission. (See chapter 213.)
- Requests for approval of appointment of former employees separated under 5 U.S.C. 7532 are sent to the Bureau of Personnel

Investigations, United States Civil Service Commission, Washington, D.C. 20415.

### A-3. INFORMATION NEEDED

a. Content of request. (1) Give the title, pay, and location of the position to be filled; the identifying symbol of excepting authority to be used, for example 213.3102(m)(2); and the type of appointment—temporary, conditional, full-time, part-time, or intermittent. Sufficient information to show compliance with the conditions and requirements of the excepting authority also must be included.

(2) A copy of the current position description and a statement of the proposed qualification requirements. (Reference to appropriate sections of *Handbook X-118* or other Commission issuance may suffice.)

(3) The appointee's Personal Qualifications Statement, SF 171, or Job Qualification Statement, SF 173, as appropriate, and any other document required by the excepting authority.

(4) For Schedule B appointment, the exact location of the applicant proposed so the Commission may schedule any required noncompetitive examination at a point convenient to the proposed appointee.

### A-4. COMMISSION ACTION

The Commission determines whether the position is in the class covered by the exception, and gives any noncompetitive examination needed. It notifies the agency of its decision. With the notice, it returns the qualifications statement sent with the request.

### A-5. APPEALS

Either the employee or the agency may appeal from an adverse decision of the Commission. When the appeal is from an ineligible rating on a noncompetitive examination, the appeal is considered the same way as other appeals from examination ratings.

## Appendix B. Forms Used for Excepted Appointments

### B-1. →PERSONAL QUALIFICATIONS STATEMENT

a. **General.** An agency must obtain a Personal Qualifications Statement, SF 171, or Job Qualification Statement, SF 173, when the position is excepted under Schedule A, B or C. It also must obtain a Personal Qualifications Statement for any position in grade GS-16, -17, or -18, for which prior approval of qualifications is required, whether it is excepted under Schedule A or B or authorized to be filled by noncareer executive assignment. SF 50-A may be used for temporary Schedule A appointments not subject to investigation under Executive Order 10450. The Commission does not require the agency to obtain a Personal Qualifications Statement for other excepted appointments unless the case must be submitted to the Commission for investigation under Executive Order 10450. If the appointing officer does obtain one in a case that need not be submitted for investigation, he should keep it.

b. **Executive Assignment System.** The forms required for a position under the Executive Assignment System are described in FPM SUPPLEMENT 305-1.←

### B-2. MEDICAL RECORDS

a. **Appointments under Schedule B.** The appointing officer must secure a medical certificate (SF 78) for a Schedule B appointment

unless a medical certificate acceptable under chapter 339 is available.

b. **Other excepted appointments.** The Commission does not require SF 78 for other excepted appointments (including Schedule A and C appointments →and noncareer executive assignments←). However, the practice of obtaining a medical certificate is strongly recommended. If the form is obtained, it is good practice to obtain it before the appointee is assigned to duty or required to travel to the place of employment. Instructions in chapter 339 on obtaining and passing on medical certificates for competitive positions may be helpful as guides in making excepted appointments. Any medical certificate obtained should be retained by the appointing officer and not sent to the Commission.

### B-3. OTHER APPOINTMENT DOCUMENTS

a. **Investigative forms.** See Chapter 736, Investigations.

b. **Proof of residence.** Standard Form 70, Proof of Residence, is not needed.

c. **Proof of date of birth.** An agency, for administrative reasons, may require the appointee to prove date of birth.

d. **Appointment affidavits.** The appointment affidavits in SF 61 must be executed as described in Chapter 295, Personnel Forms and Documents. SF 61-B is not required by the Commission, but the agency may prescribe it.